

II. REMARKS

A. Introduction

Applicants submit this Response in a bona fide attempt to (i) advance the prosecution of this application, (ii) answer each and every ground of objection and rejection as set forth by the Examiner, (iii) place the claims in a condition for allowance, and (iv) place the case in better condition for consideration on appeal. Applicants respectfully request reexamination and reconsideration of the above referenced patent application in view of this Response.

Claims 1, 2 and 4 - 34 are currently pending in this application. As indicated above, Claims 1, 2, 4, 5 and 16 have been amended.

Applicants respectfully submit that the noted amendments merely make explicit that which was (and is) disclosed or implicit in the original disclosure. The amendments thus add nothing that would not be reasonably apparent to a person of ordinary skill in the art to which the invention pertains.

B. Response to Objections

The Examiner has objected to Claim 5 in view of the following typographical error: a central apertures.” As indicated above, Applicants have amended Claim 5 to recite “a central aperture.”

C. Response to Rejections

1. 35 U.S.C. § 112

The Examiner has rejected Claims 2 and 4 - 9 under 35 U.S.C. § 112, second paragraph, “as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.”

a. Claim 2

The Examiner contends that the phrase “internally pressed circular sections” in Claim 2 “is confusing and indefinite because it’s unclear that if the limitation is the same as claim 1; line 6.”

Applicants submit that the internally pressed circular sections recited in Claim 2 are the same internally pressed circular sections recited in Claim 1. As indicated above, Applicants have accordingly amended Claim 2 to recite “one receival portion having said opposed and co-axially aligned, internally pressed circular sections.”

b. Claim 4

The Examiner further contends that there is no antecedent basis for the phrase and, hence, limitation “said receival portion” recited in Claim 4.

As indicated above, Applicants have amended Claim 4 to depend on Claim 2, wherein the receival portion is initially recited.

Applicants therefore respectfully request that the rejection of Claims 2 and 4 (and, hence, Claims 5 - 9, dependant thereon) under 35 U.S.C. § 112 be withdrawn.

2. 35 U.S.C. § 102

The Examiner has rejected Claims 1, 2, 4 - 9 and 15 - 22 “under 35 U.S.C. § 102 (b) as being anticipated by U.S. Pat No. Re. 31,234 to Juriet et al.” The Examiner contends, *inter alia*:

Claim 1: Juriet et al disclose a construction member...comprising: a longitudinal body 24 having at least a base...and two upright side walls 30/30 (Fig. 10), wherein each of said upright side walls 30/30 extends longitudinally beyond said base to thereby form opposed flange portions 42 at longitudinal ends thereof, said opposed flange portions including opposed and co-axially aligned, internally pressed circular sections 46b... (Emphasis added).

* * *

Claim 16: Juriet et al disclose a connection for roof truss members...comprising: a first member 24 including two parallel and spaced apart longitudinal surfaces having a pair of inwardly pressed and transversely aligned circular sections associated with an end thereof... .

As previously stated in Applicants’ September 29, 2010 Amendment (Amendment A), it is well established that a rejection for anticipation under § 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference. *See In re Paulsen*, 30 F.3d 1475, 1478-79, 31 U.S.P.Q. 2d 1671, 1673 (Fed. Cir. 1994); *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 18 U.S.P.Q. 2d 1001 (Fed. Cir.1991). *See also American Permahedge, Inc. v. Barcana, Inc.*, 857 F. Supp. 308, 32 U.S.P.Q. 2d 1801, 1807-08 (S.D. NY 1994) (“Prior art anticipates an invention ... if a single prior art reference contains each and every element of the patent at issue, operating in the same fashion to perform the identical function as the patent product. ... Thus, any degree of physical difference between the patented product and the prior art, *no matter how slight*, defeats the claim of anticipation.”); *Transco Ex parte Levy*, 17 U.S.P.Q. 2d 1461, 1462 (Bd. Pat. App. & Int’l 1990) (“[I]t is incumbent upon the

examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference”).).

Applicants respectfully submit that neither independent Claim 1, nor independent Claim 16, as amended, is anticipated by Juriet, et al. As set forth in detail below, Jureit, et al. simply does not disclose or even suggest every limitation of Applicants’ claimed invention.

Claim 1 embodies a construction member having “a longitudinal body having at least a base and two upright side walls, wherein each of said upright side walls extends longitudinally beyond said base to thereby form opposed flange portions at longitudinal ends thereof.”

Claim 16, as amended, embodies a connection for roof truss members having a first member that includes “two parallel and spaced apart longitudinal surfaces having a pair of inwardly pressed and transversely aligned circular sections at an end thereof.”

The claimed “construction member” and “first member” are thus integral units, i.e. the same material and structural element is used to form the member and connecting portion thereof (i.e. flange portions and circular sections). This key feature and, hence, limitation is illustrated in the figures and described in detail in Specification. (See, e.g., Para. 0052 – 0054)

As discussed in detail below, this feature is also a major contributing factor toward the superior structural integrity exhibited by Applicants’ roof truss.

Applicants respectfully submit that Juriet, et al. does not teach or even suggest an “integral” supporting member for a roof truss, wherein the connecting member or portion comprises the same material and structural element as the supporting member. Contrary to the Examiner’s contention, Juriet, et al. is directed to a “hinged connector plate” and does *not* disclose “upright side walls 30/30 [that extend] longitudinally beyond said base to thereby form opposed flange portions 42 at longitudinal ends thereof.” Indeed, the “flanged portions” of the Juriet, et al. upright wall feature (i.e. the outer periphery of the wooden structural members) are provided by a *separate* and *distinct* connector plate.

Applicants therefore respectfully submit that Claims 1 and 16 (and, hence, Claims 2, 4 - 9, 15 and 17 – 22, dependant thereon) are not anticipated by Juriet, et al. and request that the rejection of the noted claims under 35 U.S.C. § 102 be withdrawn.

3. 35 U.S.C. § 103

The Examiner has also rejected Claims 23 – 26 and 29 - 33 under 35 U.S.C. § 103(a) as being unpatentable over Juriet, et al. The Examiner contends that Juriet, et al. disclose each claimed element recited in independent Claim 23, and Claims 24 – 26 and 29 - 33, dependant thereon, “but do not disclose expressly that the roof truss is a metal roof truss.”

The Examiner has also rejected Claims 10 – 14, and 27 - 28 under 35 U.S.C. § 103(a) as being unpatentable over Juriet, et al. in view of U.S. Pat. No. 5,865,008 to Larson. The Examiner contends that Juriet, et al. disclose each claimed element recited in independent Claim 1, and Claims 12 and 13, dependent thereon, and independent Claim 23, but does not disclose the limitations recited in dependent Claim 10, i.e. “wherein at least a longitudinal portion of said construction member further includes two upper edges extending inwards from said upright side walls to thereby form a longitudinal channel therebetween.” However, the Examiner contends that:

Larson discloses a metal roof truss 10 (Fig. 1). The roof truss 10 comprises a base 11, two side walls 12, the side walls 12 are extending upwardly at 15, outwardly at 14 and then inwardly at 17 to form a channel therebetween. In view of Larson, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute Juriet for a metal truss including inwardly extending upper edges in order to engage, hold and support to another member.

The Examiner has also rejected Claim 34 under 35 U.S.C. § 103(a) as being unpatentable over Juriet, et al. in view of U.S. Pat. No. 4,782,641 to Manenti, et al. The Examiner contends that Juriet, et al. disclose each claimed element recited in independent Claim 23 and Claim 25, dependant thereon, but does not disclose the limitations recited in dependent Claim 34, i.e. “wherein an apex plate joins said stiffening member and said chord member at said roof truss upper apex.”

However, the Examiner contends that:

In view of Manenti, et al. it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Juriet, et al. [with] a plate for joining upper chord members together in order to securely [fasten] together and facilitate a building assembly.

Contrary to the Examiner’s contentions, Applicants respectfully submit that Claims 10 - 14 and 23 – 34 define an invention that is *unobvious* over Juriet, et al., alone or in combination with Larson and/or Manenti, et al.

It is well established that in determining what is and what is not obvious under 35 U.S.C. § 103, unexpected or **superior results, functions or properties achieved by or embodied in a claimed invention must be considered**. See *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 127 S. Ct. 1727, 167 L. Ed. 2d 705 (2007). It is also well established that all properties and advantages not in the prior art must be considered. See *In re Wright*, 848 F.2d 1216, 6 U.S.P.Q. 2d 1959, 1962 (Fed. Cir. 1988). It is thus the invention as a whole, including superior results and advantages, which must be considered in obviousness determinations.

a. Claims 23 – 26, 29 and 33

As indicated above, the Examiner contends that Juriet, et al. disclose each claimed element recited in independent Claim 23, “but do not disclose expressly that the roof truss is a metal roof truss.” The Examiner further states that “[applicants have] not disclosed the criticality of this feature.”

Applicants respectfully submit that, although the metal material significantly enhances the structural integrity of the claimed roof truss, it is the metal material in combination with the structural design of the stiffening and chord members, and the unique engagement thereof, that provides the superior structural integrity, properties and advantages of Applicants’ roof truss.

As indicated above, the roof truss recited in Claim 23 includes a stiffening member having “a base, first and second ends, two parallel and spaced apart side walls, and parallel and spaced apart end flanges disposed on at least said first end of said stiffening member, said side walls extending a predetermined distance longitudinally beyond said base to thereby form parallel and spaced apart end flanges.”

The claimed “stiffening member” is thus an integral unit, wherein the side walls form the end flanges. This key feature is again illustrated in the figures and described in detail in Specification, see, e.g., Para. 52 - 54.

As discussed in detail above, Juriet, et al. does not even suggest a stiffening member for a roof truss, having “integral” side walls and end flanges. The ‘flanged portions” of the Juriet, et al. upright wall feature are provided by a *separate* and *distinct* connector plate.

The roof truss recited in Claim 23 further includes a chord member having “a base, two parallel and spaced apart side walls, and at least one receiving section, whereby said at least one receiving section is adapted to receive said end flanges of said stiffening member, said end

flanges and said receiving sections including inwardly pressed circular sections configured such that said end flanges and receiving sections rotatably engage.”

Applicants respectfully submit that Juriet, et al. also does not disclose a chord member having the claimed recited design features.

Further, as set forth in detail in the Specification, when the end flanges and receiving sections rotatably engage, “one section is effectively snapped within the other and prevented from radial movement, or in other words, relative movement of the members along a shear plane.” (see Para. 0055). Such engagement and, hence, radial movement restriction means is not and cannot be provided by the Juriet, et al. structure.

As also set forth in detail in the Specification, two additional means for restricting radial movement of the claimed members are also provided by virtue of the unique structural design of the members. The second radial movement restriction means is provided by securing the members with a bolt-nut assembly and tightening the bolt-nut assembly to a sufficient torque level.

The third radial movement restriction means is provided by tightening the bolt-nut assembly to a pre-determined first torque, wherein the splayed edges of the chord member bite into the side walls of the stiffening member to provide yet additional radial movement restriction means.

The structural design of the stiffening and chord members, the metal material used to form the members, and the noted radial movement restriction means of the engaged members thus provides a roof truss having a structural integrity that is far superior to any known truss system, including the Juriet, et al. “hinged connector plate” structure.

Applicants thus respectfully submit that Claim 23, and Claims 24 – 26, 29 and 33 define an invention that is *unobvious* in view of Juriet, et al.

b. Claims 10, 11, 27 and 28

As indicated above, the Examiner contends that Juriet, et al. disclose each claimed element recited in independent Claim 1 (upon which Claims 10 and 11 depend) and independent Claim 23 (upon which Claims 27 and 28 depend), and that Larson discloses the limitations recited in Claims 10 and 11, i.e.

“wherein at least a longitudinal portion of said construction member further includes two upper edges extending inwards from said upright side walls to thereby form a longitudinal

channel therebetween” [Claim 10] and “wherein said upper edges of said construction member are splayed above and adjacent said at least one receival portion, to thereby allow for the opposed flange portions of a further construction member to be received therethrough” [Claim 11]

and Claims 27 and 28, i.e.

“wherein said chord and said stiffening members further include upper edges extending along at least a portion of said chord and said stiffening members, said upper edges defining an open longitudinal channel therebetween” [Claim 28] and “wherein said receiving section of said chord member includes splayed upper edges located above and adjacent said inwardly pressed sections, said splayed edges extending substantially upwardly and outwardly and then inwardly toward said parallel and spaced apart side walls of said stiffening member.” [Claim 28]

Contrary to the Examiner’s contention, as set forth above, Juriet, et al does not disclose each claimed element recited in Claim 1 or Claim 23.

Applicants again emphasize that Claim 1 embodies an “integral” construction member having “a longitudinal body having at least a base and two upright side walls, wherein each of said upright side walls extends longitudinally beyond said base to thereby form opposed flange portions at longitudinal ends thereof.”

Claim 23 similarly embodies a stiffening member having “a base, first and second ends, two parallel and spaced apart side walls, and parallel and spaced apart end flanges disposed on at least said first end of said stiffening member, said side walls extending a predetermined distance longitudinally beyond said base to thereby form parallel and spaced apart end flanges.”

The claimed construction and stiffening members are thus “integral” units, wherein the side walls form the flanged portions or ends.

As discussed in detail above, Juriet, et al. does not even suggest an “integral” construction or stiffening member for a roof truss.

As also discussed in detail above, the design features recited in Claims 10, 11, 27 and 28 facilitate the engagement of other members and, hence, the aforementioned enhanced structural integrity of the roof truss.

Applicants thus respectfully submit that Claims 10, 11, 27 and 28 define an invention that is ***unobvious*** in view of Juriet, et al. and Larson.

c. Claim 34

As indicated above, the Examiner contends that Juriet, et al. disclose each claimed element recited in independent Claim 23 and Claim 25, dependant thereon, but does not disclose the limitations recited in dependent Claim 34, i.e. “wherein an apex plate joins said stiffening member and said chord member at said roof truss upper apex.” However, the Examiner contends that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Juriet, et al. with a plate for joining their upper chord members in view of Manenti, et al.

Contrary to the Examiner’s contention, Applicants again submit that Juriet, et al does not disclose each claimed element recited in Claim 23.

As discussed in detail above, the stiffening member recited in Claim 23 is an “integral” unit, wherein the side walls form the end flanges. Juriet, et al. does not even suggest such a member.

The roof truss recited in Claim 23 further includes a chord member having at least one receiving section that is adapted to receive the end flanges of the stiffening member, whereby the end flanges and receiving sections rotatably engage. When the end flanges and receiving sections rotatably engage, one section is effectively snapped within the other to thereby provide one of three cooperating means for restricting radial movement of the engaged members.

The engaged metal stiffening and chord members therefore provide a roof truss that exhibits superior structural integrity that is far superior to the Juriet, et al. “hinged connector plate” structure *with or without Manenti, et al. plate*.

Applicants thus respectfully submit that Claim 34 defines an invention that is *unobvious* in view of Juriet, et al. and Manenti, et al.

Claims 1, 2 and 4 - 34 should accordingly be deemed allowable over Juriet, et al., alone or in combination with Larson and/or Manenti, et al.

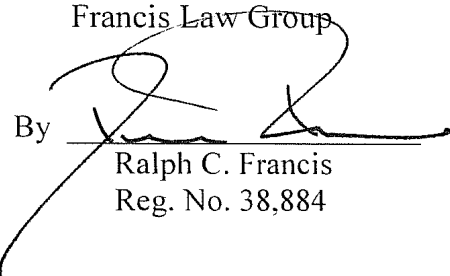
III. CONCLUSION

Applicants having answered each and every ground of objection and rejection, as set forth by the Examiner, and having added no new matter, respectfully submit that Claims 1 – 2 and 4 - 34 are now in condition for allowance and the same is respectfully solicited.

If the Examiner has any further questions or comments, Applicants invite the Examiner to contact their Attorney of Record at the telephone number below to expedite prosecution of the application.

Respectfully submitted,
Francis Law Group

By



Ralph C. Francis
Reg. No. 38,884

Dated: April 14, 2011
FRANCIS LAW GROUP
1942 Embarcadero
Oakland, CA 94606
(510) 533-1100